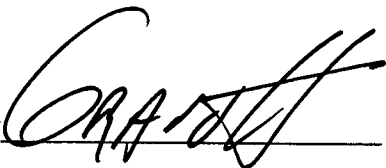


By



H B. No. 807

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of interior designers;
providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. SHORT TITLE. This Act may be cited as the
Interior Designers Licensing Act.

SECTION 2. PURPOSE. The purpose of this Act is to license
and regulate persons known as interior designers, to protect the
public health, safety, and welfare, and to prohibit the use of the
title "interior designer" by persons who are not licensed.

SECTION 3. DEFINITIONS. In this Act:

(1) "Board" means the State Board of Interior Design.

(2) "Interior designer" means a person licensed under
this Act. The term includes a person qualified by education,
experience, and examination who, in order to enhance and protect
the health, safety, and welfare of the public:

(A) identifies, researches, and creatively
solves problems relating to the function and quality of the
interior environment;

(B) performs services relating to interior
spaces, including programming, design analysis, space planning, and
aesthetics, by using specialized knowledge of interior
construction, building codes, equipment, materials, and
furnishings; and

1 (C) prepares drawings and other documents
2 relating to the design of interior spaces.

3 SECTION 4. BOARD; MEMBERS. (a) The State Board of Interior
4 Design is composed of nine members. Five members must be
5 professional interior designers, one of whom must be affiliated
6 with an accredited four-year institution of higher education. One
7 member must be an architect licensed in this state. One member
8 must be a representative of the retail home furnishing industry.
9 Two members must be representatives of the general public.

10 (b) The governor shall appoint each member of the board with
11 the advice and consent of the senate. Appointments to the board
12 shall be made without regard to the race, color, handicap, sex,
13 religion, age, or national origin of the appointee. The governor
14 shall attempt to balance the appointments among the various
15 geographical areas of the state.

16 (c) Members of the board hold office for staggered terms of
17 six years. Three members' terms expire February 1 of each
18 odd-numbered year. In the event of a vacancy during a term, the
19 governor shall appoint a replacement who meets the qualifications
20 of the vacated office to fill the unexpired part of the term. A
21 member may not serve any part of a consecutive term.

22 (d) Before entering on the duties of the office, each member
23 of the board shall take the constitutional oath of office, a signed
24 copy of which shall be filed with the secretary of state.

25 SECTION 5. QUALIFICATIONS OF MEMBERS. (a) Each member of
26 the board must be a citizen of the United States and a resident of
27 this state for the two years preceding the date of the appointment.

1 (b) To be eligible for appointment, each professional
2 interior designer member must have been engaged in the practice of
3 the profession of interior design for at least six years before the
4 appointment and must be qualified to hold a license as an interior
5 designer under this Act.

6 (c) A person is not eligible for appointment as a public
7 member of the board if the person or the person's spouse:

8 (1) is licensed by an occupational regulatory agency
9 in the field of interior design;

10 (2) is employed by or participates in the management
11 of a business entity related to the field of interior design; or

12 (3) has, other than as a consumer, a financial
13 interest in a business entity related to the field of interior
14 design.

15 (d) A member or employee of the board may not be an officer,
16 employee, or paid consultant of a trade association in the field of
17 interior design. A person who cohabits with or is the spouse of an
18 officer, managerial employee, or paid consultant of a trade
19 association in the field of interior design may not be a member of
20 the board or an employee of the board who is exempt from the
21 state's position classification plan or is compensated at or above
22 the amount prescribed by the General Appropriations Act for step 1,
23 salary group 17, of the position classification salary schedule.

24 (e) A person who is required to register as a lobbyist under
25 Chapter 305, Government Code, may not serve as a member of the
26 board or act as the general counsel to the board.

27 SECTION 6. GROUNDS FOR REMOVAL. (a) It is a ground for

1 removal from the board if a member:

2 (1) does not have at the time of appointment the
3 qualifications required for appointment to the board;

4 (2) does not maintain during service on the board the
5 qualifications required for appointment to the board;

6 (3) violates a prohibition established by this Act;

7 (4) does not attend at least one-half of the regularly
8 scheduled board meetings held in a calendar year, excluding
9 meetings held when the person was not a member; or

10 (5) is determined after a board hearing based on
11 written charges to be inefficient, incapable, negligent, or guilty
12 of malfeasance in office.

13 (b) The board may remove a board member by a vote of
14 two-thirds of the membership of the board.

15 (c) A member of the board is not liable to civil action for
16 any act performed in good faith in the execution of duties as a
17 board member.

18 (d) The validity of an action of the board is not affected
19 by the fact that it is taken when a ground for removal of a member
20 of the board exists.

21 SECTION 7. BOARD MEETINGS; OFFICERS; QUORUM. (a) The board
22 shall hold at least two regular meetings each year. The board may
23 meet at other times as provided by the bylaws of the board.

24 (b) The board shall annually elect or appoint a chairman, a
25 vice-chairman, and a secretary from its membership.

26 (c) The board is subject to the open meetings law, Chapter
27 271, Acts of the 60th Legislature, Regular Session, 1967 (Article

1 6252-17, Vernon's Texas Civil Statutes), and the Administrative
2 Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas
3 Civil Statutes).

4 (d) A quorum of the board consists of not fewer than five
5 members. A quorum is necessary for the transaction of business.
6 An action is not final without at least five affirmative votes for
7 the action.

8 SECTION 8. COMPENSATION AND EXPENSES. Each member of the
9 board is entitled to the per diem set by legislative appropriation
10 for each day that the member engages in the business of the board.
11 A member is entitled to compensation for travel expenses, including
12 food, lodging, and transportation expenses, as provided by the
13 General Appropriations Act. The per diem and expenses shall be
14 paid from the professional interior designers fund established in
15 this Act. General revenue funds may not be used for the
16 administration of this Act except as provided by the General
17 Appropriations Act.

18 SECTION 9. GENERAL POWERS AND DUTIES OF BOARD. (a) The
19 board shall establish the qualifications and fitness of applicants
20 for licenses and license renewals. The board shall establish
21 standards of conduct and ethics for licensees.

22 (b) The board may appoint an executive director and other
23 personnel as necessary to administer the duties of the board.

24 (c) The board may revoke, suspend, or deny a license, place
25 on probation a licensee whose license has been suspended, or
26 reprimand a licensee for a violation of this Act or a rule adopted
27 under this Act.

1 (d) The board shall prepare or approve continuing education
2 programs for licensees, and shall require each licensee to
3 participate in an approved continuing education program in order to
4 renew a license issued under this Act.

5 (e) The board shall prepare information of consumer interest
6 describing the functions of the board and the legal rights of
7 consumers as affected by this Act. The information must describe
8 the procedure by which a consumer complaint is filed with and
9 resolved by the board. The board shall make the information
10 available to the general public and to appropriate state agencies.

11 (f) The board shall adopt rules consistent with this Act for
12 the general administration of the Act as provided by the
13 Administrative Procedure and Texas Register Act (Article 6252-13a,
14 Vernon's Texas Civil Statutes).

15 (g) The board shall keep an information file about each
16 complaint filed with the board relating to a licensee. If a
17 written complaint is filed with the board, the board, at least as
18 frequently as quarterly, shall notify the parties to the complaint
19 of the status of the complaint until final disposition, unless the
20 notification would jeopardize an undercover investigation.

21 (h) The board may accept donations from any source to carry
22 out its duties under this Act.

23 SECTION 10. FUND; FEES. (a) The professional interior
24 designers fund is created as a special fund in the state treasury.
25 All fees received by the board under this Act shall be deposited to
26 the credit of the fund and may be spent by the board only in the
27 administration of this Act.

1 (b) The board shall set fees for licenses, license renewals,
2 examinations, and all other administrative expenses, unless
3 otherwise set in the General Appropriations Act, in amounts not to
4 exceed:

- | | | |
|---|----------------------------|--------|
| 5 | (1) application fee | \$100 |
| 6 | (2) license fee | \$100 |
| 7 | (3) annual renewal fee | \$ 50 |
| 8 | (4) reciprocal license fee | \$100. |

9 (c) The board may also set fees for duplicate licenses,
10 rosters of licensed interior designers, examinations,
11 reexaminations, restorations of a revoked or suspended license, or
12 late renewals. The board shall set those fees in amounts that are
13 reasonable and necessary to cover the costs of administration.

14 SECTION 11. ADVERTISING. The board may not adopt rules
15 restricting advertising by licensees except to prohibit false,
16 misleading, or deceptive practices by licensees. The board may not
17 include in its rules a rule that:

18 (1) restricts the person's use of any medium for
19 advertising;

20 (2) restricts the person's personal appearance or use
21 of the person's voice in an advertisement;

22 (3) relates to the size or duration of an
23 advertisement by the person; or

24 (4) restricts the person's advertisement under a trade
25 name.

26 SECTION 12. RECORDS; ROSTER; REPORT. (a) The board shall
27 keep a record of its proceedings. The board shall keep a register

1 of all applications for a license that lists:

- 2 (1) the name, age, and address of each applicant;
- 3 (2) the date of the application;
- 4 (3) the place of business of the applicant;
- 5 (4) the educational and other qualifications of the
- 6 applicant;
- 7 (5) whether or not the applicant took the examination;
- 8 (6) whether or not the applicant was rejected;
- 9 (7) whether or not a license was granted;
- 10 (8) the date of the board action; and
- 11 (9) any other information the board considers
- 12 necessary.

13 (b) The board shall maintain an official roster showing the
14 name, license number, and address of all interior designers
15 licensed under this Act. The roster is open to the public for
16 inspection and information. The board may annually publish and may
17 distribute copies of the roster to any person on payment of an
18 administrative fee.

19 (c) Biennially the board shall file with the governor,
20 lieutenant governor, and speaker of the house of representatives a
21 report relating to its operations. The report must include a
22 statement of the board's receipts and expenditures during the
23 preceding fiscal biennium. The board shall file the report not
24 later than the 75th day of each regular session of the legislature.

25 SECTION 13. LICENSE. (a) Except as otherwise provided by
26 this Act, the board shall issue a license to an applicant who
27 presents satisfactory evidence of possessing the necessary

1 qualifications as to education, experience, and examination
2 performance required by this Act or by the rules adopted by the
3 board. To be eligible for a license, an applicant must be a
4 resident of this state and at least 21 years of age.

5 (b) Each applicant must pay the required fees and must pass
6 the licensing examination except as otherwise provided by Section
7 16 of this Act.

8 (c) Each application for a license must be on a form
9 prescribed and furnished by the board. The application must
10 contain a verified statement of the applicant's education and a
11 detailed summary of the applicant's actual interior design work.
12 The application must list at least five references, of whom at
13 least three must be interior designers.

14 SECTION 14. ELIGIBILITY FOR EXAMINATION. Except as
15 otherwise provided by this Act, each applicant for licensing must
16 apply to the board, on a form prescribed by the board, for
17 admission to the licensing examination. To be eligible for the
18 examination, an applicant must submit satisfactory evidence to the
19 board of not less than six years of combined professional education
20 and experience in the field of interior design. The applicant may
21 present the evidence in the form of a diploma that indicates
22 graduation from an interior design program recognized and approved
23 by the board, plus at least one year of professional experience in
24 the field of interior design. The board may not give credit for
25 more than five years of professional education in determining
26 eligibility for the examination. The board shall adopt rules for
27 determining whether or not an applicant's professional education

1 and experience in the field of interior design are sufficient to
2 establish eligibility for the examination and establishing
3 standards for the recognition and approval of interior design
4 educational programs.

5 SECTION 15. EXAMINATIONS. (a) Except as provided by
6 Sections 16 and 17 of this Act, each applicant for a license must
7 successfully complete the licensing examination. The examination
8 must cover the subjects and be graded on the basis the board
9 establishes in its rules. The board may adopt by rule the
10 examination of the National Council for Interior Design
11 Qualification or a comparable examination.

12 (b) The board shall determine the times and places for
13 licensing examinations. The examinations must be offered at least
14 once a year. The board shall give reasonable public notice of the
15 examinations in the manner provided by its rules.

16 SECTION 16. LICENSE WITHOUT EXAMINATION. (a) Each person
17 who has practiced as an interior designer for at least two years
18 before the effective date of this Act is entitled to a license
19 without examination if the person complies with all other
20 requirements of this Act and applies before September 1, 1990.

21 (b) A person is considered to have practiced as an interior
22 designer if the person, either independently or in the course of
23 regular employment, rendered or offered to render interior design
24 services or taught interior design at an institution of higher
25 education in an accredited degree program in interior design
26 recognized by the board. Any combination of services or teaching
27 satisfies the requirements of this section.

1 (c) A person who applies for a license before September 1,
2 1990, is not ineligible for licensing without examination under
3 this section for failure to fulfill the two-year period of service
4 or teaching, if that person was practicing as an interior designer
5 before September 1, 1989, and all other licensing requirements of
6 this Act are met. At the completion of two years of service or
7 teaching, the board shall issue a license without examination.

8 SECTION 17. LICENSE BY RECIPROCITY. A person who is
9 licensed or otherwise registered as an interior designer by another
10 state, the District of Columbia, a commonwealth or territory of the
11 United States, or another country, and whose requirements for
12 licensing or registration were on the date of the licensing or
13 registration substantially equal to those prescribed by this Act,
14 shall be granted a license without examination on submission of an
15 application form and payment of an administrative fee if the person
16 is in good standing in the jurisdiction in which the person is
17 licensed.

18 SECTION 18. CERTIFICATE; SEAL. An applicant for a license
19 who complies with all requirements for a license, including
20 successful completion of the licensing examination unless otherwise
21 exempted, is entitled to a certificate issued by the board to
22 evidence the licensing and is entitled to the use of any
23 appropriate seal.

24 SECTION 19. LICENSE RENEWAL. (a) A license issued under
25 this Act expires one year from the date of issuance. A licensee
26 may renew an unexpired license by paying the renewal fee before the
27 expiration date of the license. The board shall issue a renewal

1 certificate to the licensee at the time of the renewal.

2 (b) If a person's license has been expired for less than one
3 year, the person may renew the license by paying the unpaid renewal
4 fees plus a late renewal fee in an amount determined by the board.

5 SECTION 20. GROUNDS FOR LICENSE REVOCATION, SUSPENSION,
6 DENIAL, OR DISCIPLINE OF LICENSEE. (a) After a hearing, the board
7 may revoke, suspend, or deny a license, or otherwise discipline a
8 licensee if the applicant for license or the licensee has:

9 (1) been convicted of a felony or a misdemeanor
10 involving moral turpitude;

11 (2) obtained or attempted to obtain a license by fraud
12 or deception;

13 (3) been grossly negligent in performing professional
14 duties;

15 (4) practiced in a manner detrimental to the public
16 health or welfare;

17 (5) advertised in a manner that tends to deceive or
18 defraud the public;

19 (6) aided or abetted any person not licensed under
20 this Act in violating this Act; or

21 (7) failed to comply with the requirements of this Act
22 or with any rule of the board adopted under this Act.

23 (b) Notice of grounds under this section may be filed with
24 the board by any person. The executive director or the executive
25 director's designee shall conduct an investigation as that person
26 considers necessary and shall report to the board the findings,
27 together with any recommendations for action.

1 (c) After the expiration of six months from the date of a
2 revocation, suspension, or denial of renewal of a license under
3 this section and on payment by the person involved of all fees and
4 costs incurred by the board as a result of the case at issue, the
5 person may apply to the board for a license or restoration of the
6 license. The board may issue a license or restore the license if
7 the person presents evidence to support the issuance or
8 restoration.

9 SECTION 21. EXEMPTIONS. (a) This Act does not apply to an
10 architect licensed to practice in this state.

11 (b) This Act does not prohibit an employee of a licensed
12 interior designer from rendering interior design services under the
13 control, instruction, or supervision of the employer.

14 (c) This Act does not prevent any person from rendering or
15 offering to render interior design services if that person does not
16 use the title interior designer on any sign, card, or other means
17 of identification unless licensed under this Act.

18 (d) This Act does not prevent interior decorators engaged
19 only in the application of aesthetic principles in the selection of
20 furnishings, materials, and appliances from rendering interior
21 decorating services.

22 SECTION 22. PENALTY. (a) A person commits an offense if
23 the person knowingly or intentionally violates this Act or a rule
24 adopted under this Act.

25 (b) An offense under this section is a Class A misdemeanor.

26 SECTION 23. APPLICATION OF SUNSET ACT. The board is subject
27 to the Texas Sunset Act (Chapter 325, Government Code). Unless

1 continued in existence as provided by that Act, the board is
2 abolished and this Act expires effective September 1, 2001.

3 SECTION 24. INITIAL APPOINTMENTS. In making the initial
4 appointments to the board, the governor shall designate three
5 members for terms expiring in 1991, three members for terms
6 expiring in 1993, and three members for terms expiring in 1995.

7 SECTION 25. EFFECTIVE DATE; TRANSITION. (a) This Act takes
8 effect September 1, 1989.

9 (b) A person is not required to obtain a license to use any
10 title or other means of identification as an interior designer
11 before September 1, 1990.

12 SECTION 26. EMERGENCY. The importance of this legislation
13 and the crowded condition of the calendars in both houses create an
14 emergency and an imperative public necessity that the
15 constitutional rule requiring bills to be read on three several
16 days in each house be suspended, and this rule is hereby suspended.

H. B. No. 807

By Grant

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of interior designers;
providing penalties.

FEB 1 1989

1. Filed with the Chief Clerk.

FEB 21 1989

2. Read first time and Referred to Committee on

State Affairs

3. Reported favorably (as amended)
(as substituted) and sent to Printer at _____

4. Printed and distributed at _____

5. Sent to Committee on Calendars at _____

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote)
(Record Vote of _____ yeas, _____ nays, _____
present, not voting).

7. Motion to reconsider and table the vote by which H.B. _____ was ordered
engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas,
_____ nays, and _____ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed
to suspend) by a four-fifths vote of _____ yeas, _____ nays, and _____
present, not voting).

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote
of _____ yeas, _____ nays, _____ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. _____ was finally passed
prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____
nays, and _____ present, not voting).

12. Ordered Engrossed at _____

13. Engrossed.

14. Returned to Chief Clerk at _____

15. Sent to Senate.

Chief Clerk of the House

16. Received from the House

17. Read, referred to Committee on _____

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read
first time.

20. Ordered not printed.

21. Regular order of business suspended by
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 22. To permit consideration, reading and passage, Senate and Constitutional Rules
suspended by vote of _____ yeas, _____ nays.

_____ 23. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 24. Caption ordered amended to conform to body of bill.

_____ 25. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas,
_____ nays to place bill on third reading and final passage.

_____ 26. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION:

OTHER ACTION:

Secretary of the Senate

_____ 27. Returned to the House.

_____ 28. Received from the Senate (with amendments,
(as substituted.)

_____ 29. House (Concurred) (Refused to Concur) in Senate (Amendments)
(Substitute) by a (Non-Record
Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

_____ 30. Conference Committee Ordered.

_____ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 32. Ordered Enrolled at _____